

Remarks

Claims 1, 3-7, 9-11 and 15-17 are currently pending in the Application and Claims 9-10 and 15-16 are herein canceled without prejudice.

Summary of claim amendments

This response amends Claim 1 to recite features of Claims 9-10 and cancels Claims 9-10 and 15-16 without prejudice.

Specification amendments

This response amends the Title of the application as requested by the Examiner. Withdrawal of the objection is respectfully requested.

Claim language interpretation

The Examiner asserts that the feature “said lower layer extends beyond an outer edge of said upper layer” as recited in Claim 1 means that the lower layer extends in a longitudinal or lateral direction beyond a longitudinal or lateral outer edge of the upper layer. Applicants respectfully traverse the Examiner’s assertion.

According to MPEP §2111.01(I), “the words of the claim must be given their plain meaning unless ... the plain meaning is inconsistent with ... the specification.” Applicants disagree with the Examiner’s interpretation of the cited feature of Claim 1 because one skilled in the art would not interpret “extends beyond an outer edge” to mean extends in a longitudinal direction. According to the Merriam-Webster Online Dictionary, the term “extend” is defined as “to cause to be longer” (the definition of the term “extend” from Merriam-Webster Online Dictionary is enclosed herein). Because the plain meaning of the term “extend” teaches a lateral direction and there is nothing in the specification that teaches or suggests a longitudinal direction as inexplicably asserted by the Examiner, Applicants submit that the Examiner’s assertion is improper.

It may be that the Examiner is relying on facts within his personal knowledge, because one skilled in the art using plain meaning would not interpret “extends beyond an outer edge” to mean extends in a longitudinal direction. If such is the case, Applicants respectfully request under 37 C.F.R. § 1.104(d)(2) that the Examiner provide an Affidavit supporting the Examiner’s assertions. If the Examiner is relying on a prior art reference, Applicants respectfully request that the Examiner cite the reference. Otherwise, Applicants respectfully request that the assertion be withdrawn.

35 U.S.C. §112, second paragraph, rejection

Claims 15-16 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants submit that Claims 15-16 have been canceled and request that the rejection be withdrawn.

35 U.S.C. §103(a) Rejection

Claims 1, 4-7, 9-11 and 15-17 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Wehrmeyer (U.S. Patent No. 3,908,659). Claim 3 stands rejected under 35 U.S.C. §103(a) as being obvious in view of Wehrmeyer and further in view of Fitzgerald (U.S. Patent No. 4,435,178).

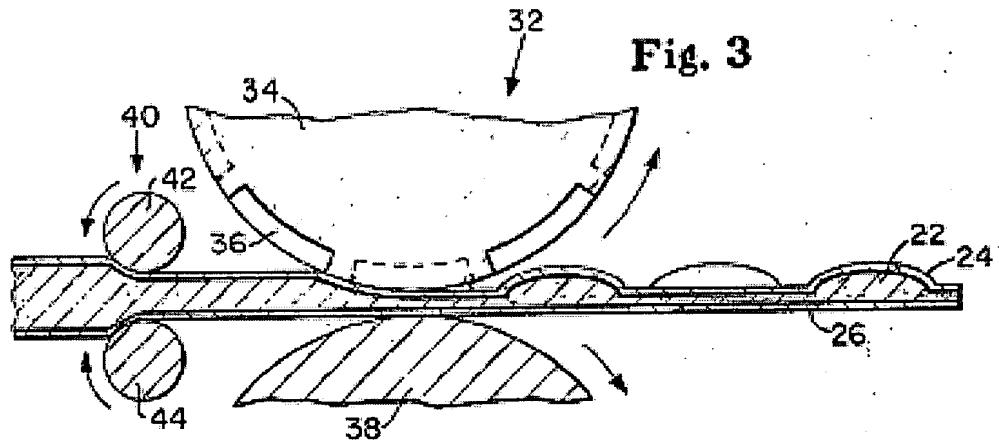
*Applicants submit that the Examiner has not established a *prima facie* case of obviousness for the claims rejected under 35 U.S.C. §103(a) because the Examiner has failed to show that Wehrmeyer teaches each and every element as recited in the present claims.*

Claim 1

A. Applicants submit that the Examiner has not shown that Wehrmeyer disclose, suggest or teach, *inter alia*, the following features recited by amended Claim 1 of the present application:

“wherein said lower layer has a higher density than that of said upper layer by forming **indented recesses in the lower layer** of said absorbent that underlies said upper layer into a continuous honeycomb shape”
(emphasis added)

Referring to Wehrmeyer’s Figure 3, reproduced below, the Examiner asserts that the “upper layer” as recited in Claim 1 is disclosed by Wehrmeyer’s layer “24” (p. 3, section 6). The Examiner further asserts that Wehrmeyer’s layer “26” disclose “the lower layer” as recited in Claim 1. Applicants respectfully traverse the Examiner’s assertion.



According to Wehrmeyer, the layer “26” is flat and does not have any recesses. How can Wehrmeyer’s layer “26” disclose the “lower layer” recited in Claim 1, when Wehrmeyer’s layer “26” does not have “indented recesses” as recited in Claim 1?

Applicants submit that the Examiner failed to comply with 37 C.F.R. §1.104(c)(2) which states:

“In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes invention other than that claimed by Applicant, **the particular part relied on must be designated as nearly as practicable**. The pertinence, if not apparent, must be clearly explained and each rejected claim specified” (emphases added).

Applicants submit that the Examiner has failed to “designate as nearly as practicable” where Wehrmeyer’s layer “26” contains “indented recesses.”

Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness for the claims rejected under 35 U.S.C. §103(a). Therefore, Applicants respectfully request that the rejection be withdrawn.

B. Applicants also submit that the Examiner has not shown that Wehrmeyer disclose, suggest or teach, *inter alia*, the following features recited by amended Claim 1 of the present application:

“wherein said absorbent has relations of B>C>A, when said upper layer has a density A, a portion of said lower layer that underlies the upper layer has a density B, and the remaining portion of said lower layer that extends beyond the outer edge of said upper layer has a density C; wherein the density A is 20 to 50 Kg/m³, the density B is 40 to 120 Kg/m³; and the density C is 20 to 60 Kg/m^{3”} (emphasis added)

The Examiner asserts that the “upper layer” as recited in Claim 1 is disclosed by Wehrmeyer’s layer “24” (p. 3, section 6). The Examiner further asserts that Wehrmeyer’s layer “26” disclose “the lower layer” as recited in Claim 1. Applicants respectfully traverse the Examiner’s assertion.

Once again Applicants submit that the Examiner failed to comply with 37 C.F.R. §1.104(c)(2) by not designating “as nearly as practicable” where Wehrmeyer’s layer “24” has a density of “20 to 50 Kg/m³” as recited in amended Claim 1, and originally recited in Claim 10.

The Examiner further failed to “designate as nearly as practicable” where a portion Wehrmeyer’s layer “26” has a density of “40 to 120 Kg/m^{3”} and another portion Wehrmeyer’s layer “26” has a density of “20 to 60 Kg/m^{3”} as recited in amended Claim 1, and originally recited in Claim 10.

Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness for the claims rejected under 35 U.S.C. §103(a). Therefore, Applicants respectfully request that the rejection be withdrawn.

C. Applicants further submit that the Examiner has not shown that Wehrmeyer disclose, suggest or teach, *inter alia*, the following features recited by amended Claim 1 of the present application:

“said lower layer **extends beyond** an outer edge of said upper layer”
(emphasis added)

Referring to Wehrmeyer’s Figure 3, reproduced above, the Examiner asserts that the “upper layer” as recited in Claim 1 is disclosed by Wehrmeyer’s layer “24” (p. 3, section 6). The Examiner further asserts that Wehrmeyer’s layer “26” disclose “the lower layer” as recited in Claim 1. Applicants respectfully traverse the Examiner’s assertion.

For reasons stated above, the feature “said lower layer extends beyond an outer edge of said upper layer” as recited in Claim 1 means that the lower layer extends in a lateral direction beyond a lateral outer edge of the upper layer, **not** that the feature “said lower layer extends beyond an outer edge of said upper layer” as recited in Claim 1 means that the lower layer extends in a longitudinal direction beyond a longitudinal outer edge of the upper layer. Therefore, Wehrmeyer’s layer “26” does not disclose the “lower layer” recited in Claim 1, because Wehrmeyer’s layer “26” is the same length as the layer “24.”

Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness for the claims rejected under 35 U.S.C. §103(a). Therefore, Applicants respectfully request that the rejection be withdrawn.

Claims 3-7, 11 and 17

Claims 3-7, 11 and 17, at least based on their dependency on amended Claim 1, are also believed to be patentable over the cited references.

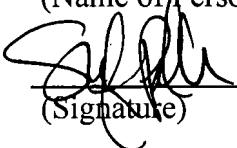
Conclusion

In view of the above, reconsideration and allowance of all the claims are respectfully solicited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450 on

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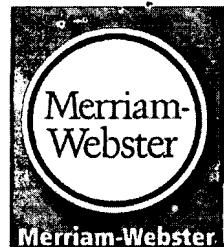
Respectfully submitted,



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One entry found for **extend**.

Main Entry: **ex-tend**

Pronunciation: ik-'stend

Function: *verb*

Etymology: Middle English, from Anglo-French or Latin; Anglo-French *estendre*, from Latin *extendere*, from *ex-* + *tendere* to stretch -- more at [THIN](#) transitive verb

1 : to spread or stretch forth : [UNBEND](#) <extended both her arms>

2 a : to stretch out to fullest length **b** : to cause (as a horse) to move at full stride **c** : to exert (oneself) to full capacity <could work long and hard without seeming to *extend* himself> **d** (1) : to increase the bulk of (as by adding a cheaper substance or a modifier) (2) : [ADULTERATE](#)

3 [Middle English, from Medieval Latin *extendere* (from Latin) or Anglo-French *estendre*, from Old French] **a** British : to take possession of (as lands) by a writ of [extent](#) **b** obsolete : to take by force

4 a : to make the offer of : [PROFFER](#) <extending aid to the needy>

<extending their greetings> **b** : to make available <extending credit to customers>

5 a : to cause to reach (as in distance or scope) <national authority was *extended* over new territories> **b** : to cause to be longer : [PROLONG](#) <extend the side of a triangle> <extended their visit another day>; *also* : to prolong the time of payment of **c** : [ADVANCE](#), [FURTHER](#) <extending her potential through job training>

6 a : to cause to be of greater area or volume : [ENLARGE](#) <extended the patio to the back of the house> **b** : to increase the scope, meaning, or application of : [BROADEN](#) <beauty, I suppose, opens the heart, *extends* the consciousness -- Algernon Blackwood> <extending the meaning of the word> **c** archaic : [EXAGGERATE](#)

intransitive verb

1 : to stretch out in distance, space, or time : [REACH](#) <their jurisdiction extended over the whole area>

2 : to reach in scope or application <his concern *extends* beyond mere business to real service to his customers>

- **ex-ten-abil-i-ty** /"-sten-d&-'bi-l&-'tE/ *noun*

- **ex-ten-able** also **ex-ten-ible** /'-sten-d&-b&/'l/ *adjective*

synonyms [EXTEND](#), [LENGTHEN](#), [PROLONG](#), [PROTRACT](#) mean to draw out or add to so as to increase in length. [EXTEND](#) and [LENGTHEN](#) imply a drawing out in space or time but [EXTEND](#) may also imply increase in width, scope, area, or range <extend a vacation> <extend welfare services> <lengthen a skirt> <lengthen the workweek>. [PROLONG](#) suggests chiefly increase in duration especially beyond usual limits <prolonged illness>.

[PROTRACT](#) adds to [PROLONG](#) implications of needlessness, vexation, or indefiniteness <protracted litigation>.

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